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September 20, 2002

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
Room CY-B-402
445 12th Street, S.W.
Washington, D.C. 20554

Re: Application by SBC Communications Inc., et al., for Provision of In-Region,
InterLATA Services in California

Dear Ms. Dortch:

Accompanying this letter is the Application of SBC Communications Inc. ("SBC") for Provision of In-Region, InterLATA Services in California.

Pursuant to the Commission's filing requirements, the following are being provided with this letter:

- Two CD-ROM sets containing the entire Application, in electronic form, redacted for public inspection. The Application includes a brief in support of the Application, one appendix of affidavits and supporting exhibits, and ten appendices containing additional supporting documentation.
- One original and one copy of the Application in paper form, redacted for public inspection.
- One original of only those portions of the Application that contain confidential information. This includes portions of Appendix A (Affidavits), Appendix D (OANAD), Appendix F (OSS), and Appendix K (Selected Documents). A copy of this letter accompanies the confidential portions of the Application. The material

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designated as confidential includes information relating to carriers' wholesale and retail operations in California, proprietary cost information, and other information containing trade secrets. None of this information is disclosed to the public, and disclosure would cause substantial harm. As such, we are requesting that these portions of the Application receive confidential treatment by the Commission.

We are submitting a copy of the Application, in paper and electronic form, redacted for public inspection, to Qualex (the Commission's copy contractor). In addition, we are providing the Common Carrier Bureau with 20 copies of the brief and 20 copies of Appendix A in paper form, as well as 20 CD-ROM versions of the entire Application in electronic form. All this material is redacted for public inspection. Furthermore, we are submitting to the Bureau one copy in paper form of only those portions of the Application that contain confidential information.

We are also submitting one copy of this cover letter and one copy of the Application in paper form, redacted for public inspection, to Susan Wittenberg, U.S. Department of Justice, 1401 H Street, N.W., Suite 8000, Washington, D.C. 20530. We are also including a copy of the electronic portions of the state record proprietary material. Finally, we are providing the Department of Justice with seven copies of the brief, seven copies of Appendix A in paper form (with seven copies of the proprietary portions), and seven CD-ROMs containing the entire Application in electronic form, redacted for public inspection.

All inquiries relating to access (subject to the terms of any applicable protective order) to any confidential information submitted by SBC in support of the Application should be addressed to:

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Please date-stamp the extra copy of this letter and return it to the individual delivering the Application. If you have any questions, please contact me at (202) 326-7968. Thank you for your assistance in this matter.

Yours truly,

A handwritten signature in black ink, appearing to read 'Colin S. Stretch', with a stylized flourish at the end.

Colin S. Stretch

Encs.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Application by SBC Communications Inc.,
Pacific Bell Telephone Company, and
Southwestern Bell Communications Services,
Inc. for Provision of In-Region, InterLATA
Services in California

WC Docket No. 02-206

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

**BRIEF IN SUPPORT OF APPLICATION BY SBC FOR
PROVISION OF IN-REGION, INTERLATA SERVICES IN CALIFORNIA**

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EXECUTIVE SUMMARY

This Application marks the culmination of six years of collaborative work by Pacific Bell Telephone Company ("Pacific"), the California Public Utilities Commission ("California PUC" or "CPUC"), and dozens of local carriers to establish the framework for local competition in California. The results of this work are impressive and undeniable:

- Pacific has satisfied each of the 14 statutory checklist requirements for opening the local market to competition, thereby ensuring that CLECs have access to all the facilities and services they need to compete in the provision of local telecommunications services in Pacific's region.
- Pacific has put in place state-of-the-art, independently tested operations support systems ("OSS") pursuant to which Pacific successfully processes, on a monthly basis, hundreds of thousands of CLEC orders for local services and facilities.
- Pacific routinely meets approximately 90 percent of the performance measures that track its responses to these hundreds of thousands of orders, a level of performance that is particularly outstanding since, under the rigorous standards imposed by the CPUC, Pacific can be expected to miss up to 10 percent of the measures in any given month due to random variation alone.

As a direct result of these extraordinary efforts, CLECs in California have established a market presence unparalleled in any other state at the time their section 271 applications were filed. According to the most conservative estimate, CLECs are serving at least 2.6 million access lines in Pacific's serving area, more than three-quarters of a million of which are provided to residential customers. While CLECs are serving the bulk of these lines over their own facilities – either exclusively or in combination with the close to half a million unbundled loops they have leased from Pacific – Pacific has also provided them with close to a quarter of a million UNE-platforms. CLECs have obtained approximately 1.29 million interconnection trunks, which they are using to exchange with Pacific approximately 6.0 billion minutes of traffic each month. By any measure, the level of competition in California far exceeds the levels in New York and

Texas – the two largest states for which the Commission has reviewed section 271 applications previously – when applications for those states were filed.

This vibrant competition provides the lens through which the Commission should view the issues raised by this Application. CLECs can and do compete effectively in California, and they are proving it every day. As the Department of Justice (“DOJ”) has stressed, “[i]f actual, broad-based entry through each of the entry paths contemplated by Congress is occurring in a state, this will provide invaluable evidence supporting a strong presumption that the BOC’s markets have been opened.” That “invaluable evidence” is abundant in this case, and Pacific has earned the “strong presumption” that the DOJ has properly identified.

Indeed, the CLECs themselves have trumpeted the openness of the local market in California. More than a year ago, AT&T had already, by its own admission, achieved 19 percent telephony penetration in California’s Bay Area, “with many communities in the high 20s,” and it was boasting that it was “happy with the progress [it had] made so far.” A few months later, AT&T publicly identified certain California markets as among the “most profitable locations” in the country for a UNE-based entry strategy. For its part, WorldCom earlier this year rolled out “The Neighborhood” program in California – an action that, again by its own admission, it takes only where the incumbent LEC has “opened [the] market[] to competition.”

Each of these admissions came, moreover, *before* the California PUC’s recent interim UNE rate decision that, according to AT&T, “set the stage for real competition.” The California PUC set rates for interconnection and unbundled network elements in a comprehensive proceeding that lasted several years, involved thousands of pages of comments and other pleadings as well as live hearings with witnesses subject to cross-examination, and gave rise to

four published opinions. AT&T and WorldCom appealed the results of that proceeding to a federal district court, which rejected their claims and concluded that the California PUC's methodology for setting UNE rates was fully consistent with TELRIC.

As part of its ratesetting process, the CPUC put in place a mechanism to allow periodic review of its judicially approved rates to ensure that they remain consistent with both Pacific's forward-looking costs and this Commission's rules. That "Relook" process is now underway, and it is in that context that the CPUC has established interim loop and switching rates that are even lower than those previously held to be TELRIC compliant by the CPUC and the federal district court. Those interim rates are not only well below the range that a reasonable application of TELRIC would produce, but they also fit comfortably within the benchmark test this Commission has used in previous section 271 applications and the D.C. Circuit has approved. Moreover, according to AT&T's own data, those interim rates have allowed AT&T to achieve higher "first month [UNE-P] penetration" in California than virtually anywhere else.

To order the facilities and services that Pacific makes available under the 1996 Act, CLECs in California can choose from a wide selection of electronic (and manual) operations support systems. These include industry-standard systems; customized systems that have not been required by regulators or industry standard-setting bodies, but that were developed by Pacific and offered to fit CLECs' business plans; and proprietary systems used by Pacific's own retail representatives. CLECs have used these systems to order every item identified in the competitive checklist – in many cases, hundreds of thousands of times.

Pacific's outstanding performance in fulfilling these orders is verifiable, on an ongoing basis, through the California PUC's performance-monitoring program. Under that program,

Pacific provides CLECs and state and federal regulators monthly reports that cover all aspects of the service it provides its CLEC customers. The accuracy of those reports has been verified by the independent auditing firm PricewaterhouseCoopers, which confirmed, after performing a comprehensive audit designed in large part by CLECs, that Pacific's performance reports are accurate and reliable. That conclusion is further buttressed by numerous data reconciliations between Pacific and CLECs that confirmed the accuracy and reliability of Pacific's reported data.

In addition to Pacific's outstanding commercial performance, this Commission can rely on a comprehensive, independent third-party OSS test overseen by the California PUC and modeled after the tests conducted in New York and Texas. To make the test as realistic as possible, Pacific received "blind" service requests from "pseudo-CLECs," which Pacific provisioned in the "real world." After nearly a year and a half of cooperative planning and testing, with the participation of AT&T, WorldCom, and other CLECs at every stage, the third-party test confirmed that Pacific's systems provide CLECs nondiscriminatory access and can handle foreseeable CLEC demand.

The access Pacific provides CLECs to advanced services inputs in California is proven not just by commercial volumes and the OSS test, but is also ensured by the existence of Pacific's structurally separate advanced services affiliate. As the FCC envisioned, because Pacific's own advanced services are provided exclusively through that structurally separate affiliate, CLECs and regulators know – even apart from the performance data demonstrating the fact – that CLECs receive nondiscriminatory access to the facilities and services they need to provide advanced services.

Pacific has devoted enormous resources to establish a wholesale infrastructure in California for providing excellent service to its CLEC customers, and it is committed to continuing to provide such service. In addition, Pacific has implemented a CPUC-approved incentives plan equivalent to that endorsed in prior FCC decisions. Under this plan, Pacific is liable for payments of over \$50 million per month. Even if Pacific were inclined to “backslide” (and it is not), such enormous liability, together with the FCC’s powers to rescind or limit interLATA authority and to impose other penalties for violations of legal duties, provides more than ample protection to CLECs.

Virtually everyone – regulators, legislators, carriers, and economists alike – agrees that SBC’s entry into in-region, interLATA services will spur long-distance competition in California, particularly to serve lower-volume, residential callers. In states where SBC is competing for long-distance customers, AT&T and the other incumbent interexchange carriers have offered promotions, free gifts, and bundled service offerings. As Chairman Powell recently noted, “[w]e see a correlation between the process for approving applications and growing robustness in the markets.” This Application demonstrates in detail the steps Pacific, the CPUC, and CLECs have taken to create open local markets in California. This Commission should now do its part, by approving this Application and permitting the consumers of California to witness firsthand the benefits that come with such “growing robustness.”

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GLOSSARY OF 271 ORDERS

<u>Arkansas/Missouri Order</u>	<u>Joint Application by SBC Communications Inc., et al. Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Arkansas and Missouri</u> , Memorandum Opinion and Order, 16 FCC Rcd 20719 (2001), <u>appeal pending</u> , <u>AT&T Corp. v. FCC</u> , No. 01-1511 (D.C. Cir.)
<u>Georgia/Louisiana Order</u>	<u>Joint Application by BellSouth Corp., et al., for Provision of In-Region, InterLATA Services In Georgia and Louisiana</u> , Memorandum Opinion and Order, 17 FCC Rcd 9018 (2002)
<u>Kansas/Oklahoma Order</u>	<u>Joint Application by SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Kansas and Oklahoma</u> , Memorandum Opinion and Order, 16 FCC Rcd 6237 (2001), <u>aff'd in part and remanded</u> , <u>Sprint Communications Co. v. FCC</u> , 274 F.3d 549 (D.C. Cir. 2001)
<u>First Louisiana Order</u>	Memorandum Opinion and Order, <u>Application by BellSouth Corp., et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Louisiana</u> , 13 FCC Rcd 6245 (1998)
<u>Second Louisiana Order</u>	<u>Application of BellSouth Corp., et al., for Provision of In-Region, InterLATA Services in Louisiana</u> , Memorandum Opinion and Order, 13 FCC Rcd 20599 (1998)
<u>Massachusetts Order</u>	<u>Application of Verizon New England Inc., et al., For Authorization to Provide In-Region, InterLATA Services in Massachusetts</u> , Memorandum Opinion and Order, 16 FCC Rcd 8988 (2001), <u>appeal pending</u> , <u>WorldCom, Inc. v. FCC</u> , No. 01-1198 (and consolidated cases) (D.C. Cir.)
<u>Michigan Order</u>	<u>Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan</u> , Memorandum Opinion and Order, 12 FCC Rcd 20543 (1997)

<u>New Jersey Order</u>	<u>Application by Verizon New Jersey Inc., et al., for Authorization To Provide In-Region, InterLATA Services in New Jersey</u> , Memorandum Opinion and Order, WC Docket No. 02-67, FCC 02-189 (rel. June 24, 2002)
<u>New York Order</u>	<u>Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York</u> , Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999), <u>aff'd</u> , <u>AT&T Corp. v. FCC</u> , 220 F.3d 607 (D.C. Cir. 2000)
<u>First Oklahoma Order</u>	Memorandum Opinion and Order, <u>Application by SBC Communications Inc., Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide in-Region, InterLATA Services In Oklahoma</u> , 12 FCC Rcd 8685 (1997)
<u>Pennsylvania Order</u>	<u>Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania</u> , Memorandum Opinion and Order, 16 FCC Rcd 17419 (2001), <u>appeal pending</u> , <u>Z-Tel Communications, Inc. v. FCC</u> , No. 01-1461 (D.C. Cir.)
<u>Rhode Island Order</u>	<u>Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Rhode Island</u> , Memorandum Opinion and Order, 17 FCC Rcd 3300 (2002)
<u>South Carolina Order</u>	Memorandum Opinion and Order, <u>Application of BellSouth Corp., et al. Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In South Carolina</u> , 13 FCC Rcd 539 (1997), <u>aff'd</u> , <u>BellSouth Corp. v. FCC</u> , 162 F.3d 678 (D.C. Cir. 1998)
<u>Texas Order</u>	<u>Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas</u> , Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000)

Vermont Order

Application by Verizon New England Inc., et al., for
Authorization To Provide In-Region, InterLATA
Services in Vermont, Memorandum Opinion and
Order, 17 FCC Rcd 7625 (2002), appeal pending,
AT&T Corp. v. FCC, No. 02-1152 (D.C. Cir.)

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Application by SBC Communications Inc.,
Pacific Bell Telephone Company, and
Southwestern Bell Communications Services,
Inc. for Provision of In-Region, InterLATA
Services in California

WC Docket No. 02-_____

To: The Commission

**BRIEF IN SUPPORT OF APPLICATION BY SBC FOR
PROVISION OF IN-REGION, INTERLATA SERVICES IN CALIFORNIA**

INTRODUCTION

Pursuant to section 271(d)(1) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, § 151(a), 110 Stat. 89 ("1996 Act" or "Act"), SBC Communications Inc. and its subsidiaries Pacific Bell Telephone Company ("Pacific") and Southwestern Bell Communications Services, Inc. ("SBCS") – collectively, "SBC" – seek authority to provide in-region, interLATA services (including services treated as such under 47 U.S.C. § 271(j)) in the State of California.¹

This filing follows years of work by Pacific to replace systems and operating procedures that had been designed for an exclusive, franchised local-exchange environment with systems

¹ SBC will soon file with the FCC an application for authorization under 47 U.S.C. § 214 to provide international services originating in California.

and procedures that serve CLECs and their customers on a nondiscriminatory basis. To provide CLECs the same ability as Pacific's own retail operations to interconnect with and use Pacific's order-processing systems, Pacific spent years developing and testing a battery of electronic systems dedicated exclusively to processing wholesale customers' local service transactions. Huston/Lawson Joint Aff. ¶¶ 110-185, 210-217 (App. A, Tab 11). Pacific negotiated collaborative procedures that allow CLECs to participate in developing new OSS interfaces, and it developed training curricula, handbooks, help centers, and websites that instruct CLECs on making the most efficient use of Pacific's wholesale offerings. See id. ¶¶ 223-254. Pacific implemented independently validated performance measurements that comprehensively track Pacific's performance of the duties imposed by the 1996 Act, and that consistently demonstrate that Pacific is providing CLECs with outstanding service. See Johnson Aff. ¶¶ 13-20, 45 (App. A, Tab 12). And Pacific committed to face enormous liability in the unlikely event that this service level declines in the wake of section 271 relief. See id. ¶¶ 11, 222.

Pacific's overwhelming efforts have been matched by the work of the California PUC. Indeed, the California PUC's consideration of this Application meets all four criteria for authoritativeness identified in prior FCC orders. See, e.g., New York Order ¶ 20; Texas Order ¶ 11. As described throughout this Application, the California PUC has assembled a record including:

- participation by all interested parties in years of proceedings relating to section 271;
- reliance on extensive third-party testing of Pacific's systems, processes, and procedures, carried out under the auspices of the California PUC;
- the results of technical conferences, hearings, and workshops before the CPUC in which Pacific and CLECs worked through implementation issues; and

- comprehensive performance monitoring mechanisms, pursuant to which CLECs and state and federal regulators can obtain a clear picture of the quality of service Pacific provides to its CLEC customers.

The California PUC's efforts to open the local market to competition began well before passage of the 1996 Act. As long ago as 1988, the California PUC authorized both limited intraLATA toll competition and pricing flexibility for a number of services, including Centrex, high-speed data transmission, and certain customer specific arrangements. See Interim Opinion, General Telephone Co. of Cal., D.88-09-059, 29 CPUC 2d 376 (Cal. PUC Sep. 28, 1988). Five years later, the California PUC initiated a broad-ranging proceeding – known as “Open Access and Network Architecture Development of Dominant Carrier Networks,” or “OANAD” – that became the procedural vehicle through which the CPUC comprehensively investigated numerous local competition issues both before and after the 1996 Act. See Batongbacal Aff. ¶ 12 (App. A, Tab 1); Order Instituting Rulemaking and Investigation, Rulemaking on the Commission's Own Motion to Govern Open Access, R.93-04-003, I.93-04-002 (Cal. PUC Apr. 7, 1993) (“OANAD Rulemaking Order”) (App. D, Tab 1). And over the next three years, the CPUC took numerous steps that laid the groundwork for the 1996 Act – including, for example, the opening of the intraLATA toll market to competition; the requirement that Pacific unbundle certain facilities, interconnect, and file collocation tariffs; and the adoption of procedures to expedite approval of interconnection agreements and to resolve interconnection disputes. See Batongbacal Aff. ¶¶ 13-14, 16-19; see also, e.g., Interim Opinion, Alternative Regulatory Frameworks for Local Exchange Carriers, D.94-09-065, 56 CPUC 2d 117 (Cal. PUC Sept. 15, 1994); Interim Opinion Concerning Expanded Interconnection and Local Transport Restructuring, Rulemaking on the Commission's Own Motion to Govern Open Access, D.95-04-073, 59 CPUC 2d 389 (Cal. PUC Apr. 26, 1995); Interim Opinion, Order Instituting Rulemaking on the Commission's Own

Motion into Competition for Local Exchange Service, D.95-12-056 (Cal. PUC Dec. 20, 1995) (App. C, Tab 2).

The California PUC was thus amply prepared to act when the 1996 Act became law, and act it did. Within months of the FCC's Local Competition Order,² the CPUC approved comprehensive interconnection agreements with AT&T, MCI, and Sprint. See Batongbacal Aff. ¶ 27; Opinion, Petition of AT&T Communications, Inc., D.96-12-034 (Cal. PUC Dec. 9, 1996) (App. C, Tab 16); Opinion, Petition of MCI Telecommunications Corp., D.97-01-039 (Cal. PUC Jan. 23, 1997) (App. C, Tab 18); Opinion, Petition of Sprint Communications Co. L.P., D.97-01-046 (Cal. PUC Jan. 23, 1997) (App. C, Tab 19). A year later, the CPUC issued a decision expressly adopting the TELRIC pricing methodology and establishing Pacific's recurring costs. See Batongbacal Aff. ¶ 28; Interim Decision Adopting Cost Methodology, Rulemaking on the Commission's Own Motion to Govern Open Access, D.98-02-106 (Cal. PUC Feb. 19, 1998) ("First TELRIC Cost Decision") (App. C, Tab 30). That decision was followed by decisions setting nonrecurring costs, as well as permanent rates for unbundled network elements ("UNEs") and interconnection. See Batongbacal Aff. ¶¶ 30-31; Opinion, Rulemaking on the Commission's Own Motion to Govern Open Access, D.98-12-079 (Cal. PUC Dec. 17, 1998) ("Second TELRIC Cost Decision") (App. C, Tab 45); Interim Decision Setting Final Prices for Network Elements

² First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, 11 FCC Rcd 15499, modified on recon., 11 FCC Rcd 13042 (1996), vacated in part, Iowa Utils. Bd. v. FCC, 120 F.3d 753 (8th Cir. 1997), aff'd in part, rev'd in part sub nom. AT&T Corp. v. Iowa Utils. Bd., 525 U.S. 366 (1999), decision on remand, Iowa Utils. Bd. v. FCC, 219 F.3d 744 (8th Cir. 2000), aff'd in part, rev'd in part sub nom. Verizon Communications Inc. v. FCC, 122 S. Ct. 1646 (2002).

Offered by Pacific Bell, Rulemaking on the Commission's Own Motion to Govern Open Access, D.99-11-050 (Cal. PUC Nov. 18, 1999) ("OANAD Pricing Decision") (App. C, Tab 60).

At the same time as it took these and other steps to facilitate competition in the local market, the CPUC initiated a proceeding to bring the benefits of added long-distance competition to California consumers. The first stage of this proceeding began on August 9, 1996 – when the California PUC first began building a record on which it could base its section 271 analysis – and culminated with the filing of Pacific's draft 271 application on March 31, 1998. See Batongbacal Aff. ¶¶ 47-52. CPUC staff then conducted collaborative discussions at which all interested parties were able to identify issues raised by Pacific's filing. See id. ¶¶ 53, 55. Based on these comprehensive discussions, as well as on a full round of comments by all parties, the CPUC issued its Blueprint Decision on December 17, 1998. See Opinion, Rulemaking on the Commission's Own Motion to Govern Open Access, D.98-12-069 (Cal. PUC Dec. 17, 1998) ("Blueprint Decision") (App. C, Tab 44); Batongbacal Aff. ¶ 61. This decision concluded that Pacific had satisfied four checklist items, and, with respect to the remainder, set out "a solid blueprint for a future 271 request that [the California PUC] could earnestly and enthusiastically support with the expectation that the FCC would confirm its assessment and grant Pacific's application." Blueprint Decision at 73.

A key element in the CPUC's blueprint was a third-party test of Pacific's OSS, which began in June 1999 and continued into the first quarter of 2001. See Huston/Lawson Joint Aff. ¶¶ 29-82. The test – which was designed jointly by the California PUC, CLECs, and Pacific – was both independent and blind, employed a military-style, test-until-you-pass philosophy, and otherwise incorporated each characteristic that this Commission has identified as lending weight

to a third party's OSS evaluation. See id.; New York Order ¶¶ 96-100. And, as discussed in more detail below, the test resulted in a ringing endorsement of both the functionality and the scalability of Pacific's OSS. See infra Part II.B.6.

On July 15, 1999, with the OSS test underway, Pacific filed with the California PUC an application – consisting of a brief and thousands of pages of supporting affidavits and documentation – supporting its bid for 271 relief. See Batongbacal Aff. ¶ 68. This filing triggered voluminous comments from CLECs and other interested parties, to which Pacific responded in a comprehensive reply filing on September 7, 1999. See id. Over the next 15 months, as the OSS test worked its way to completion, Pacific then updated its main compliance filing in response to additional requirements imposed by the FCC (such as those stemming from the UNE Remand Order,³ the Line Sharing Order,⁴ and the Collocation & Advanced Services Reconsideration Order⁵). See Batongbacal Aff. ¶¶ 76, 80-81. At each juncture, the California PUC gave CLECs an opportunity to comment on Pacific's filings, an opportunity they seized by filing comments on every conceivable issue related to Pacific's 271 showing. See id.

³ Third Report and Order and Fourth Further Notice of Proposed Rulemaking, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 15 FCC Rcd 3696 (1999), petitions for review granted, United States Telecom Ass'n v. FCC, 290 F.3d 415 (D.C. Cir. 2002), limited stay granted (D.C. Cir. Sept. 4, 2002).

⁴ Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 14 FCC Rcd 20912 (1999), vacated and remanded, United States Telecom Ass'n v. FCC, 290 F.3d 415 (D.C. Cir. 2002), limited stay granted (D.C. Cir. Sept. 4, 2002).

⁵ Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, Deployment of Wireline Services Offering Advanced Telecommunications Capability, 15 FCC Rcd 17806 (2000).

Comprehensive though these many filings were, the California PUC was more careful still. In 2001, with the OSS test now complete and with the CPUC nearing completion of the 271 process, the CPUC took several steps to ensure that CLECs had been able to air every issue that might possibly be related to Pacific's 271 entry. In April 2001, the CPUC invited all interested parties to participate in an open hearing and to identify outstanding issues that they believed should be addressed prior to any decision to endorse Pacific's 271 application. The CPUC requested that Pacific file a list of the issues raised at that hearing, which Pacific did on May 29, 2001, and which all parties were permitted to supplement. The CPUC then required Pacific to file this list on a monthly basis, as updated to take account of intervening developments and additional CLEC concerns. See id. ¶¶ 89-90. And, finally, to make triply sure that interested parties had had every opportunity to comment on Pacific's application, the CPUC then required Pacific to file a draft of its federal application, which Pacific did on June 27, 2001, and again allowed all parties to comment. Id. ¶ 93.

With this extraordinary, unprecedented record in place, the CPUC issued a draft decision on July 23, 2002, proposing at long last to "conclude the California chapter of [Pacific's] six-year journey to long distance authorization." See Draft Decision at 2, Rulemaking on the Commission's Own Motion to Govern Open Access, R.93-04-003 (Cal. PUC July 23, 2002) ("July 23 Proposed Decision") (App. D, Tab 258). Continuing its pattern of permitting all interested parties every conceivable opportunity to raise issues related to Pacific's 271 showing, the CPUC then permitted all parties to file comments and reply comments on its draft decision,